

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Scott McCleskey
Robert O'Kane

ASSIGNEE: WebHound, Inc.

SERIAL NUMBER: 10/672,644
DATE FILED: 09/27/2003
CONFIRM. NO.: 8219

TITLE: METHOD AND SYSTEM FOR DOWNLOADING DIGITAL
CONTENT OVER A NETWORK

ATTORNEY DOCKET: 4472 P

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

Honorable Commissioner:

I hereby certify that the attached paper of fee (Response to Decision Refusing Status Under 37 CFR 1.47(a)) is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee," Express Mail Mailing Label Number ED439993039US, (under 37 C.F.R. § 1.10) on this 4th day of October, 2004 with sufficient postage and in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Mail Stop: Petitions.

Signature of registered practitioner or other person
having a reasonable basis to expect mailing to occur
on the date of deposit shown pursuant to 37 C.F.R.
§ 1.8(a) or person actually making deposit pursuant
to 37 C.F.R. § 1.10(b).

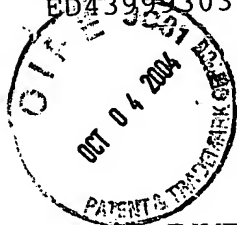
Lloyd W. Sadler, Reg. No. 40,154

Name of person whose signature is given above

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JFW



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**COVER LETTER
RESPONSE TO DECISION UNDER 37 CFR 1.47(a)**

Honorable Commissioner:

Enclosed herewith please find the following documents comprising a Response to Decision Refusing Status Under 37 CFR 1.47(a): (1) a copy of the Decision, (2) a signed declaration of executed by Inventor McCleskey, without alterations, and (3) a return receipt postcard.

In the Decision, the Office of Petitions indicated that the Petition filed on June 18, 2004 did not satisfy requirements (2) an acceptable oath or declaration, and (4) a statement of the last known address of the non-signing inventor. In response to requirement (2) the applicant has included with this response a substitute declaration without alterations. In response to requirement (4) the applicant confirms that the last known address for inventor O'Kane is:

14 Colonial Club Drive,
#200
Boynton Beach
Florida, 33435
U.S.A.

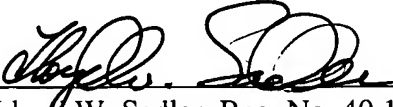
This is the address provided in the previously filed petition. This address is listed on the

substitute declaration, enclosed.

The applicant appreciates the Office's consideration and believes that this response is fully responsive to the notice of Decision Refusing Status. Thank you.

The applicant believes that no fee is required for this response. In the event a fee is required, the Commissioner is hereby authorized to charge any required fees to Deposit Account No. 50-0581.

Respectfully submitted this 4th day of October, 2004.



Lloyd W. Sadler, Reg. No. 40,154
PARSONS BEHLE & LATIMER
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Telephone: (801) 532-1234
Facsimile: (801) 536-6111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Lloyd W. Sadler
Parsons Behle & Latimer
Suite 1800
201 South Main Street
Salt Lake City UT 84111

COPY MAILED

AUG 19 2004

OFFICE OF PETITIONS

In re Application of
McClesky et al.
Application No. 10/672,644
Filed: September 27, 2003
Attorney Docket No. 4472 P
Title: Method and System For Downloading
Digital Content Over A Network

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: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
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This is in response to the petition under 37 CFR § 1.47(a), filed June 18, 2004.

The petition under 37 CFR. § 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on September 27, 2003, without an executed oath or declaration. Accordingly, on December 19, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with § 1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of February 19, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted.

A grantable petition under 37 CFR. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (2) and (4).

As to item (2) the declaration executed by Inventor McClesky contains non-dated/non-initialed alterations to the declaration. The serial number and the date filed in the heading of the declaration have been altered without having been initialed and dated. A newly executed declaration without alterations must be submitted.

As to item (4), a last known address for inventor O'Kane was provided in the petition, however a different address for inventor O'Kane has been provided on the declaration. Rule 47 applicant needs to indicate at which address inventor O'Kane can be reached. The inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. See MPEP 605.03. If inventor O'Kane can be reached at the Florida address, the newly executed declaration should reflect the Florida address.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251 until September 24, 2004, thereafter (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Scott McCleskey
Robert O'Kane

ASSIGNEE: WebHound Corporation

SERIAL NUMBER: 10/672,644

DATE FILED: 09/27/2003

TITLE: METHOD AND SYSTEM FOR DOWNLOADING DIGITAL
CONTENT OVER A NETWORK

ATTORNEY DOCKET: 4472 P

Mail Stop: PATENT APPLICATION
Commissioner for Patents
P.O. Box 1250
Alexandria, VA 22313-1450

DECLARATION FOR PATENT APPLICATION

Honorable Commissioner:

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe that I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHOD AND SYSTEM FOR DOWNLOADING DIGITAL CONTENT OVER A NETWORK the specification of which

☐ is attached hereto
☒ was filed on 09/27/2003
as Application Serial No. 10/672,644
and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119

of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
(Number)	(Country)	(Date)	
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
(Number)	(Country)	(Date)	
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
(Number)	(Country)	(Date)	

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

Prior Provisional Application(s)	
_____	_____
(Application No.)	(Filing Date)
_____	_____
(Application No.)	(Filing Date)
<u>80/252,334</u>	<u>11/23/2000</u>
(Application No.)	(Filing Date)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior United States Application(s):

<u>09/683,228</u>	<u>12/04/2001</u>	<u>Pending</u>
(Application No.)	(Filing Date)	(Status - patented, pending, abandoned)
<u>10/002,267</u>	<u>11/21/2001</u>	<u>Pending</u>
(Application No.)	(Filing Date)	(Status - patented, pending, abandoned)

Power of Attorney

I hereby appoint Lloyd W. Sadler (Reg. No. 40,154) and Daniel P. McCarthy (Reg. No. 36,600) as my representatives and attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. All communications should be directed to Mr. Sadler at the following address or telephone number:

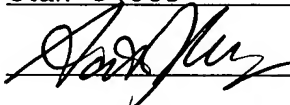
Lloyd W. Sadler
PARSONS BEHLE & LATIMER

201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
(801) 532-1234 - telephone
(801) 536-6111 - facsimile

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of inventor: Scott McCleskey
Residence of inventor:
Address: 265 Chipman Ave.
City: American Fork
State: Utah 84003
Citizenship: United States of America.

Post Office Address of Inventor:
Address: 265 Chipman Ave.
City: American Fork
State: Utah 84003

Inventor's Signature:  Date: 18 Sept 2004.

Full name of inventor: Robert O'Kane
Residence of inventor:
Address: 14 Colonial Club Dr. #200
City: Baynton Beach, FL
State: FLORIDA 33435
Citizenship: United States of America.

Post Office Address of Inventor:
Address: 14 Colonial Club Dr. #200
City: Baynton Beach
State: FLORIDA 33435

Inventor's Signature: _____ Date: _____